

**ASSEMBLY BILL**

**No. 1494**

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**Introduced by Assembly Member Eng**

February 27, 2009

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An act to amend Section 11122.5 of the Government Code, relating to public meetings.

LEGISLATIVE COUNSEL'S DIGEST

AB 1494, as introduced, Eng. Public meetings: definition.

The Bagley-Keene Open Meeting Act requires, with specified exceptions, that all meetings of a state body be open and public and all persons be permitted to attend any meeting of a state body. The act defines “meeting” for the purposes of the act and, with the exception of teleconferencing, prohibits any use of direct communication, personal intermediaries, or technological devices employed by a majority of the members of the state body to develop a collective concurrence as to action to be taken on an item by the members of the state body. Existing law specifies the contacts, conferences, and other types of gatherings that are excluded from this prohibition.

This bill would repeal that prohibition regarding the use of those communications or devices to develop a collective concurrence. The bill would instead prohibit a majority of the members of a state body from using a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter of the state body. The bill would additionally exclude from that prohibition an employee or official of a local agency engaging in a separate conversation or communication with a member of a state body for the purpose of answering questions or providing information, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 11122.5 of the Government Code is amended to read:

11122.5. (a) As used in this article, “meeting” includes any congregation of a majority of the members of a state body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the state body to which it pertains.

~~(b) Except as authorized pursuant to Section 11123, any use of direct communication, personal intermediaries, or technological devices that is employed by a majority of the members of the state body to develop a collective concurrence as to action to be taken on an item by the members of the state body is prohibited. A majority of the members of a state body shall not, outside of a meeting authorized by this chapter, use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter of the state body.~~

(c) The prohibitions of this article do not apply to any of the following:

(1) *An employee or an official of a local agency, as defined in Section 54951, engaging in a separate conversation or communication with members of a state body, if the conversation or communication meets all of the following criteria:*

(A) *The conversation or communication is outside of a meeting authorized by this chapter.*

(B) *The conversation or communication is for the propose of answering questions or providing information regarding a matter that is within the subject matter jurisdiction of the state body.*

(C) *The employee or official does not communicate to a member of the state body regarding the comments or position or any other member of the state body.*

~~(1)~~

(2) Individual contacts or conversations between a member of a state body and any other person.

~~(2)~~

(3) (A) The attendance of a majority of the members of a state body at a conference or similar gathering open to the public that involves a discussion of issues of general interest to the public or to public agencies of the type represented by the state body, ~~provided that if~~ a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specified nature that is within the subject matter jurisdiction of the state body. ~~This paragraph is not intended to allow~~

(B) *Subparagraph (A) does not allow* members of the public free admission to a conference or similar gathering at which the organizers have required other participants or registrants to pay fees or charges as a condition of attendance.

~~(3)~~

(4) The attendance of a majority of the members of a state body at an open and publicized meeting organized to address a topic of state concern by a person or organization other than the state body, ~~provided that if~~ a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within the subject matter jurisdiction of the state body.

~~(4)~~

(5) The attendance of a majority of the members of a state body at an open and noticed meeting of another state body or of a legislative body of a local agency as defined by Section 54951, ~~provided that if~~ a majority of the members do not discuss among themselves, other than as part of the scheduled meeting, business of a specific nature that is within the subject matter jurisdiction of the other state body.

~~(5)~~

(6) The attendance of a majority of the members of a state body at a purely social or ceremonial occasion, ~~provided that if~~ a majority of the members do not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the state body.

~~(6)~~

(7) The attendance of a majority of the members of a state body at an open and noticed meeting of a standing committee of that

- 1 body, ~~provided that~~ *if* the members of the state body who are not
- 2 members of the standing committee attend only as observers.

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